

## § 30.220

## 20 CFR Ch. I (4–1–05 Edition)

established with a fully rationalized medical report by a physician that shows the relationship between the injury, illness, impairment or disability and the covered cancer. Neither the fact that the injury, illness, impairment or disability manifests itself after a diagnosis of a covered cancer, nor the belief of the claimant that the injury, illness, impairment or disability was caused by the covered cancer is sufficient in itself to prove a causal relationship.

### ELIGIBILITY CRITERIA FOR CLAIMS RELATING TO CHRONIC SILICOSIS

#### **§ 30.220 What are the criteria for eligibility for benefits relating to chronic silicosis?**

To establish eligibility for benefits for chronic silicosis, an employee or his or her survivor must show that:

(a) The employee is a DOE employee, or a DOE contractor employee, who was present for a number of workdays aggregating at least 250 workdays during the mining of tunnels at a DOE facility (as defined in § 30.5(v)) located in Nevada or Alaska for tests or experiments related to an atomic weapon, and has been diagnosed with chronic silicosis (as defined in § 30.5(j)); or

(b) The employee has been diagnosed with an illness or disease that arose as a consequence of the accepted chronic silicosis.

#### **§ 30.221 How does a claimant prove exposure to silica in the performance of duty?**

(a) Proof of the employee's employment and presence for the requisite days during the mining of tunnels at a DOE facility located in Nevada or Alaska for tests or experiments related to an atomic weapon may be made by the submission of any trustworthy records that, on their face or in conjunction with other such records, establish that the employee was so employed and present at these sites and the time period(s) of such employment and presence.

(b) If the evidence shows that exposure occurred while the employee was employed and present at a facility during a time frame that is outside the relevant time frame indicated for that facility by DOE, OWCP may request

that DOE provide additional information on the facility. OWCP will determine whether the evidence of record supports enlarging the relevant time frame for that facility.

(c) Records from the following sources may be considered as evidence for purposes of establishing proof of employment or presence at a covered facility:

(1) Records or documents created by any Federal government agency (including verified information submitted for security clearance), any tribal government, or any State, county, city or local government office, agency, department, board or other entity, or other public agency or office.

(2) Records or documents created as a byproduct of any regularly conducted business activity or by an entity that acted as a contractor or subcontractor to the DOE.

(d) For purposes of satisfying the 250 workday requirement of § 30.220(a), the claimant may aggregate the days of service at more than one qualifying site.

#### **§ 30.222 How does a claimant establish that the employee has been diagnosed with chronic silicosis or has sustained a consequential injury, illness or disease?**

(a) A written diagnosis of the employee's chronic silicosis (as defined in § 30.5(j)) shall be made by a medical doctor and accompanied by one of the following:

(1) A chest radiograph, interpreted by an individual certified by the National Institute for Occupational Safety and Health as a B reader, classifying the existence of pneumoconioses of category 1/0 or higher; or

(2) Results from a computer assisted tomograph or other imaging technique that are consistent with silicosis; or

(3) Lung biopsy findings consistent with silicosis.

(b) An injury, illness, impairment or disability sustained as a consequence of accepted chronic silicosis covered by the provisions of § 30.220(a) must be established with a fully rationalized medical report by a physician that shows the relationship between the injury, illness, impairment or disability and the accepted chronic silicosis. Neither the fact that the injury, illness,

impairment or disability manifests itself after a diagnosis of accepted chronic silicosis, nor the belief of the claimant that the injury, illness, impairment or disability was caused by the accepted chronic silicosis, is sufficient in itself to prove a causal relationship.

ELIGIBILITY CRITERIA FOR CERTAIN  
URANIUM EMPLOYEES

**§ 30.225 What are the criteria for eligibility for benefits for certain uranium employees?**

In order to be eligible for benefits under this section, the claimant must establish the criteria set forth in either paragraph (a) or paragraph (b) of this section:

(a) The Attorney General has determined that the claimant is a covered uranium employee who is entitled to payment of \$100,000 as compensation due under section 5 of the RECA for a claim made under that statute (there is, however, no requirement that the claimant or surviving eligible beneficiary has actually received payment pursuant to the RECA). If a deceased employee's survivor has been determined to be entitled to such an award, his or her survivor(s), if any, will only be entitled to EEOICPA compensation in accordance with section 7384u(e) of the Act.

(b) The covered uranium employee has been diagnosed with an illness or disease that arose as a consequence of the medical condition for which he or she was determined to be entitled to payment of \$100,000 as compensation due under section 5 of the RECA.

**§ 30.226 How does a claimant establish that a covered uranium employee has sustained a consequential injury, illness or disease?**

An injury, illness, impairment or disability sustained as a consequence of a medical condition covered by the provisions of § 30.225(a) must be established with a fully rationalized medical report by a physician that shows the relationship between the injury, illness, impairment or disability and the accepted medical condition. Neither the fact that the injury, illness, impairment or disability manifests itself after a diagnosis of a medical condition

covered by the provisions of § 30.225(a), nor the belief of the claimant that the injury, illness, impairment or disability was caused by such a condition, is sufficient in itself to prove a causal relationship.

**Subpart D—Adjudicatory Process**

**§ 30.300 What process will OWCP use to decide claims and to provide for administrative review of those decisions?**

OWCP district offices will issue recommended decisions with respect to claims. All recommended decisions, including those granting and denying benefits under the Act, will be forwarded to the Final Adjudication Branch (FAB). Claimants will be given an opportunity to object to all or part of the recommended decision before the FAB. The FAB will consider any objections filed by a claimant and conduct a hearing, if requested to do so by the claimant, before issuing a final decision on the claim.

RECOMMENDED DECISIONS ON CLAIMS

**§ 30.305 How does OWCP determine entitlement to EEOICPA compensation?**

(a) In reaching a recommended decision with respect to EEOICPA compensation, OWCP considers the claim presented by the claimant, the factual and medical evidence of record, the dose reconstruction report calculated by HHS (if any), any report submitted by DOE and the results of such investigation as OWCP may deem necessary.

(b) The OWCP claims staff applies the law, the regulations and its procedures to the facts as reported or obtained upon investigation.

**§ 30.306 What does the recommended decision contain?**

The recommended decision shall contain findings of fact and conclusions of law. The recommended decision may accept or reject the claim in its entirety, or it may accept or reject a portion of the claim presented. It is accompanied by a notice of the claimant's right to file objections with, and request a hearing before, the FAB.